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Union: **Town of East Fishkill Police Benevolent Association, Inc.**

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NYS PUBLIC EMPLOYMENT
RELATIONS BOARD

JUL 25 2008

ADMINISTRATION

COLLECTIVE BARGAINING AGREEMENT

Between

TOWN OF EAST FISHKILL

and

**TOWN OF EAST FISHKILL
POLICE BENEVOLENT ASSOCIATION, INC.**

January 1, 2007 through December 31, 2009

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APPENDIX A – GENERAL MUNICIPAL LAW SECTION 207-C PROCEDURE

APPENDIX B – DRUG AND ALCOHOL TESTING POLICY FOR POLICE
OFFICERS

This Agreement, entered into this ____ day of _____, 2007, by and between the TOWN OF EAST FISHKILL, (hereinafter "Town") and the TOWN OF EAST FISHKILL POLICE BENEVOLENT ASSOCIATION, INC. (hereinafter "PBA") and jointly referred to as the "parties."

ARTICLE 1

PBA RIGHTS

Section 1 - Recognition

The Town recognizes the PBA as the sole and exclusive representative for all part-time and full-time police officers holding the rank of Police Officer, Detective, Sergeant, Lieutenant and Detective Lieutenant, in the Town of East Fishkill Police Department for all terms and conditions of employment and the processing of grievances.

Said recognition shall be granted for the maximum period allowed by law.

Section 2 - Dues and Agency Shop Fee Deductions

A. The PBA shall have exclusive rights to payroll deduction of dues and PBA sponsored insurance and benefit program premiums for employees covered by this Agreement. Such dues and premiums shall be remitted to the PBA on a payroll period basis. No other labor organization shall be accorded any payroll deduction privilege without the express consent and written authority of the PBA.

B. The Town agrees to deduct from the wages of an employee who is not a member of the PBA, but who is represented by the PBA for the purpose of collective bargaining, an Agency Shop Fee in the amount established by the PBA, provided that the PBA establish and maintain a procedure providing for the refund, to any employee demanding the return thereof, of any of part of such Agency Shop Fee which represents the employee's pro-rata share of expenditures by the PBA in aid of activities or causes unrelated, or only incidentally related, to terms and conditions of employment. The Agency Shop Fee shall be remitted to the PBA every pay period.

Section 3 - Information

The Town will provide the PBA with a full list of the names and addresses of all members of the unit, including their assigned jobs and rates of pay. The list will be updated when the work force changes.

ARTICLE 2

COMPENSATION

Section 1 - Wages

The Base Wage schedule is as follows:

Step	Years of Service	3.75%	3.75%	4.00%
		1/1/07	1/1/08	1/1/09
	1 st 6 Months	\$35,000	\$36,313	\$37,765
1	Start Pay	\$39,000	\$40,463	\$42,081
2	After 1 year	\$50,517	\$52,411	\$54,507
3	After 2 years	\$55,130	\$57,197	\$59,485
4	After 3 years	\$59,745	\$61,986	\$64,465
5	After 4 years	\$66,434	\$68,926	\$71,683
6	After 5 years	\$68,509	\$71,078	\$73,921
	Detective*	\$71,934	\$74,632	\$77,617
	Sergeant**	\$75,360	\$78,186	\$81,313
	Lieutenant***	\$82,896	\$86,356	\$89,444
			<u>\$86,505</u>	

* The Detective(s) shall be paid a differential of 5% over and above Step 6.

** The Sergeant(s) shall be paid a differential of 10% over and above Step 6.

*** The Lieutenant(s) shall be paid a differential of 10% over and above the Sergeant(s)

Section 2 - Longevity

Longevity shall be non-cumulative, but paid and added each year to the Base Wage as follows:

Completed Years of Service:	1/1/07	1/1/08	1/1/09
11 th - 10 th	\$1,000.00	\$1,100.00	\$1,200.00
11 th - 15 th	\$1,500.00	\$1,550.00	\$1,600.00
15 th - 20 th	\$2,000.00	\$2,100.00	\$2,200.00
20 & above	\$2,500.00	\$2,600.00	\$2,700.00

The above amounts are non-cumulative and are to be paid in each year as part of the Base Wage.

Section 3 - Premium Pay

A. Overtime

All employees shall be paid overtime at their time and one-half (1.5X) hourly rate of pay for all

work performed in excess of their scheduled eight (8) hour tour of duty or in excess of any scheduled workweek provided there is no unpaid leave during the pay period.

Overtime shall be assigned on a rotational basis from the most senior to the least senior employee of the department. Rejections of ordinary overtime and unavailability at the time of the dispatcher's call shall count as an assignment within the rotation. Forced overtime shall be assigned to the least senior employee available from the tour of duty preceding the time needed, or split between the earlier and later tour of duty.

B. Call-In

Any employee who is called in and reports to work before or after the employee's regularly scheduled tour of duty shall be guaranteed a minimum of three (3) hours of overtime pay to be compensated as provided for in this Article. This guarantee shall not apply to work in which an employee is called in two (2) hours immediately prior to their regularly scheduled tour of duty or requires the employee to work immediately following that tour of duty.

This guarantee shall also apply to a "call in" on an employee's day of rest (pass day) or on a holiday enumerated in Article 3 - Holidays when the affected employee is not scheduled to work.

C. Detectives On-Call Pay




A Detective shall be designated to be "on-call" each week, and shall receive an additional one hundred dollars (\$100.00) per week over and above his/her weekly Base Wage, inclusive of longevity, if applicable for that designation. In the event the Detective responds to a call, he/she shall receive Call-In as set forth in Section B above.

D. Out of Title Pay

When the Chief of Police or designee deems it necessary, out of title pay shall be paid to the employee assigned to cover the patrol Sergeant's absence. In that event, the employee assigned shall be paid for a minimum of eight (8) hours.

E. Uniform Allowance

Uniform allowance payments shall be made by reimbursement of vouchers submitted for purchases of authorized items of uniforms up to the amounts as set forth herein.

	 <u>1/1/07</u>	 <u>1/1/08</u>	 <u>1/1/09</u>
Full Time	\$850.00	\$900.00	\$950.00

Each employee may use up to two hundred dollars (\$200.00) of the uniform allowance for uniform maintenance (cleaning).

In addition to the uniform allowance set forth above, each employee who has been issued body armor (bullet proof vest) by the Town, shall have it replaced every five (5) years from the date of issue, with the Town contributing up to five hundred (\$500) dollars towards that purchase.

The Town shall provide and replace, on an as needed basis, all bicycle uniforms and equipment to affected employees, at no cost to that employee.

Section 4 - Tuition Reimbursement

A unit employee who successfully completes any course(s) toward an Associate's and/or Bachelor's Degree in a field of study related to police work shall be reimbursed by the Town up to \$400.00 per credit hour. In addition, Lieutenants and Sergeants shall receive the same reimbursement upon the same conditions for courses leading to a Master's Degree.

An employee is required to submit a certified copy of his/her transcript in order to receive reimbursement as set forth above.

ARTICLE 3

HOLIDAYS

Each employee shall be entitled to twelve (12) holidays each year, whether worked or not. In the event an employee works on any of the named holidays set forth herein, he/she shall be paid at the rate of time and one-half (1.5X) his/her hourly rate for all hours worked, except that an employee who works on Thanksgiving and/or Christmas Day shall be paid two times (2X) his/her hourly rate for all hours worked on that holiday. Each employee shall also receive an additional eight (8) hours of holiday pay for working on any holiday herein. Each employee may select an alternate Holiday if worked. The holidays are as follows:

- | | |
|--------------------------------------|----------------------------|
| 1. New Year's Day | 7. Labor Day |
| 2. Martin Luther King Jr.'s Birthday | 8. Columbus Day |
| 3. President's Day | 9. Veteran's Day |
| 4. Good Friday | 10. Thanksgiving Day |
| 5. Memorial Day | 11. Day After Thanksgiving |
| 6. Independence Day | 12. Christmas Day |

All holidays shall be used within the calendar year. In the event all holidays were not used within the calendar year, the employee will be paid for them in the first pay period of the following calendar year.

ARTICLE 4

LEAVE WITH PAY

Section 1 - Vacation

Vacations will be provided under the following schedule:

- ✓ A. Forty (40) work hours during the first (1st) calendar year of employment, provided that six (6) months of continuous service has been completed. Eighty (80) work hours during the second and each subsequent calendar year of continuous service through the completion of four (4) calendar years. One Hundred Twenty (120) work hours during each calendar year after the completion of four (4) calendar years of continuous service. One hundred sixty (160) work hours during each calendar year after completion of nine (9) calendar years of continuous service. Two hundred (200) work hours during each calendar year after completion of seventeen (17) calendar years of continuous service.
- ✓ B. Employees shall be allowed to carry over one-half (½) of their allotted vacation into the subsequent year.
- C. Vacation may be utilized in minimum increments of one-half (½) day, but only on approval of the Chief of Police or a designee.
- D. Vacation shall be scheduled as heretofore practiced.

Section 2 - Sick Leave

- A. All employees shall be credited with one (1) sick leave day each month, without limitation to accumulation.
- B. An employee may be absent from work with pay due to personal illness up to one hundred and eighty (180) accumulated sick leave days. Any accumulated sick leave days over one hundred and eighty (180) days can only be used during a disability as described in Section 6 of Article 5.
- C. The Town Board may grant additional sick leave with pay to employees exhausting all accumulated sick leave due to serious long term illness or injury, at its discretion.
- D. Each employee shall be entitled to use up to ten (10) days each year of his/her accumulated sick leave for illness of a spouse, child or parent.

- E. All accumulated unused sick leave days in excess of seventy-five (75) days, up to a maximum of one hundred eighty (180) days, shall be paid to each employee upon retirement as follows:

<u>1/1/07</u> ↙	<u>1/1/08</u> ↙	<u>1/1/09</u> ↙
\$125.00/day	\$135.00/day	\$140.00/day

Section 3 - Personal and Bereavement Leave

- A. Each employee shall receive five (5) paid personal leave days per year. All unused personal leave at the end of each calendar year shall be added to the employee's accumulated unused sick leave.
- B. In the event of the death of a member of an employee's immediate family, the employee shall be granted three (3) work days, per occurrence, of bereavement leave.

The immediate family is defined as spouse, child, parent, parent-in-law, siblings, grandparents, grandchildren, brother/sister-in-law or member of the employee's household.

Section 4 - Jury Duty

All Employees serving jury duty shall be granted leave with pay. All fees will be reimbursed to the Town with the exception of expense reimbursements.

Section 5 - Record Keeping

The Town shall maintain up-to-date records of the accrual time of all employees which will be available for review by employees and the PBA President.

ARTICLE 5

RETIREMENT, INSURANCE AND DISABILITY LEAVE

Section 1 - Retirement

The Town shall provide Section 384-d (20 year service retirement benefit) of the New York State Police and Fire Retirement System at no cost to the employee.

Section 2 - Life Insurance

10K
The Town shall through self-insurance or a policy of insurance provide a payment in the amount of \$15,000.00 upon the death of an employee at no cost to the employee, payment to be made to the employee's designated beneficiary, if any, or surviving spouse if there is no designated beneficiary, or to the employee's estate.

Section 3 - Health Insurance

The Town shall provide coverage in the New York State Health Insurance Plan (Empire Plan Core Plus Medical and Psychiatric Enhancements) or, if elected by the employee, an HMO, for its employees and their dependents at no cost to the employee. All employees hired after January 1, 1994 shall be required to pay 10% of their health insurance. Effective January 1, 2003, the MVP co-pay shall be increased to \$15.00. Effective January 1, 2003, all employees, regardless of their date of hire, shall contribute ten (10%) percent of the health insurance premium or cost for individual and/or dependent coverage. The Town will not be held liable for any change in the medical plan which is unilateral and beyond the control of the Town. The Town will work with the PBA to select plans for HMO coverage so as to provide the best coverage available and no change to covered plans will be made without consultation with the bargaining unit.

No.
Upon retirement, the Town shall pay one hundred percent (100%) of the premium or cost of individual or dependent health insurance, provided, however, that persons employed on and after January 1, 2007 must serve in a unit position for at least twenty (20) years to be eligible to receive fully-paid health insurance upon their retirement. Employees hired on and after January 1, 2007 who do not have upon retirement at least twenty (20) years of Town service in a unit position but who have at least fifteen (15) years of such service shall be entitled to continue the same health insurance benefits as they had immediately prior to retirement but shall be required to pay to the Town whatever they were paying for health insurance at the time of their retirement. In the event the retiree has the option of receiving the equivalent health insurance coverage provided by the Town, as set forth herein, that retiree shall enroll in that coverage. In the event that retiree loses that coverage, he/she shall be entitled to re-enroll back into the Town's health insurance plan, as set forth herein.

An employee who elects to waive and decline their health insurance coverage provided by the Town shall be paid a lump sum payment, one (1) time a year, of two thousand five hundred (\$2,500.00) for the family plan or one thousand dollars (\$1,000.00) for the individual plan.

Effective January 1, 2003 and in the event both spouses work for the Town, only one (1) employee shall be provided with health insurance coverage as set forth herein. In the event the covered employee separates from service and there is no health insurance coverage, the Town agrees to allow the other employee to re-enroll into one (1) of the health insurance plans provided herein, provided the buyout is paid back on a prorated basis.

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Section 4 - Dental

The Town shall continue to provide its current dental insurance coverage to cover employees and their dependents. In the event the Town can enroll all employees and their eligible dependents into the Civil Service Employees Association (CSEA) Dental Plan, known as Dutchess Dental Plan, the change shall be made at the earliest eligible date pursuant to the Plan. In the event the Town cannot continue to enroll all employees and their eligible dependents, as set forth above, the Town agrees to contribute each month, the same amount of the cost contributed to the CSEA Dental Plan. In the event the PBA elects to withdraw from the CSEA Dental Plan, the Town shall continue to fund the new plan at the same level it is funding the CSEA Dental Plan at the time of withdrawal by the PBA.

Section 5 - Vision Plan

The Town shall provide CSEA Platinum Vision Plan (Individual or Family coverage) at no cost to the employee. In the event the Town cannot continue to enroll all employees and their eligible dependents, as set forth above, the Town agrees to contribute each month, the same amount of the cost contributed to the CSEA Platinum Vision Plan. In the event the PBA elects to withdraw from the CSEA Platinum Vision Plan, the Town shall continue to fund the new plan at the same level it is funding the CSEA Platinum Vision Plan at the time of withdrawal by the PBA.

Section 6 - Disability

A. The Town shall continue to provide New York State Disability Insurance for its employees at statutory costs.

B. All Employees are eligible for disability coverage after five (5) consecutive days of illness, at which time the employee continues to receive full pay with no loss of sick leave accruals, and the Town receives reimbursement from the disability insurance carrier as has been the practice.

Effective October 1, 2002, an employee, after five (5) consecutive work days of illness or injury which is not related to his/her performance of duty, shall be placed on disability leave for up to six (6) months with full pay without using any accumulated sick or any other paid leave accruals or credits. In the event an employee continues to be out of work beyond the six (6) months set forth herein, he/she shall use any accumulated sick leave beyond the one hundred and eighty (180) days set forth in Article 4, Section 2(B) first. Thereafter, the employee shall use his/her remaining sick leave accumulation. In the event the employee exhausts all of his/her accumulated sick leave, they shall be entitled to use any other unused paid leave (i.e., personal leave, vacation, etc.). During the disability period, the employee shall not accrue sick leave or be credited with holidays. Upon return to work, the employee shall accrue sick leave and be credited with holidays, and his/her vacation and personal days will be granted with all carryover provisions applying as set forth in this Agreement.

Section 7 - General Municipal Law 207-c and Workers' Compensation

Employees sustaining compensable injuries shall suffer no loss of wages pursuant to existing practice. Effective January 1, 2003, any employee who is injured or becomes ill due to his/her performance of duty shall file for Workers' Compensation. The Town shall be reimbursed pursuant to law. Additionally, an employee who is injured or becomes ill due to his/her performance of duty shall receive General Municipal Law Section 207-c status. The employee on General Municipal Law Section 207-c status shall not accrue sick leave or be credited with holidays occurring during that period. Upon return to work, the employee shall continue to accrue sick leave and be credited with holidays, and their vacation and personal leave days will be granted with all carryover provisions applying as set forth in this Agreement.

The procedures for the administration of GML §207-c claims shall be as prescribed in Appendix A.

ARTICLE 6

PBA AND EMPLOYEE RIGHTS

The PBA and its designated agents shall have the right to consult individual members of the bargaining unit during working hours in order to administer the Agreement. Such time shall be scheduled upon approval of the Supervisor or his/her designee, but shall not be granted when it would interfere with the operation of the regular work schedules of the Town.

The Town agrees that no other labor organization offering benefits or programs similar to those offered or sponsored by the PBA shall be provided access to bargaining unit employees. The Town further agrees that it will not permit any other labor organization or PBA to hold meetings for the purpose of discussing terms and conditions of employment or be provided meeting space on property or premises owned or occupied by the Town of East Fishkill.

ARTICLE 7

GRIEVANCE PROCEDURE

Grievances involving the application and interpretation of any of the provisions of this Agreement shall be processed as follows:

Step One - Chief of Police:

- A. A grievance may only be filed by the PBA or by a member of the unit as defined in Article I - PBA Rights, Section 1 - Recognition.

- B. All grievances shall be in writing and shall be signed by the party filing the grievance. They shall include the name and position of the aggrieved party and the identity of the provision of this Agreement upon which the grievance is based. They shall also include a statement of the underlying facts, including dates, events or conditions which constitute the grievance, the identity of the party alleged to be responsible for causing the events or conditions if known to the aggrieved party and a general statement of the nature of the grievance and the redress sought by the aggrieved party.
- C. No interference, coercion, restraint, discrimination or reprisal of any kind will be taken by the Town against a party filing a grievance or by reason of the participation of any employee in a grievance procedure.
- D. All grievances must be filed with the Chief of Police no later than thirty (30) calendar days after the date upon which the violation(s) allegedly occurred. The Chief of Police shall provide a written response to the grievance no later than thirty (30) calendar days after the date the grievance was submitted. A conference shall be granted by the Chief of Police within thirty (30) calendar days after the grievance was submitted unless waived by the grievant.

Step Two - Town Supervisor:

- A. In the event that the grievance is not resolved at Step One, the appeal shall be submitted to the Town Supervisor or designee within thirty (30) calendar days after receipt of the Step One decision. The Town Supervisor shall provide a written response to the grievance no later than thirty (30) calendar days after the date the grievance was submitted. The appeal shall include the grievance and answer from Step One. A conference shall be granted by the Town Supervisor or designee within thirty (30) calendar days after the grievance was submitted unless waived by the grievant.

Step Three - Arbitration:

- PERB
- A. In the event that the PBA is dissatisfied with the Town Supervisor's or designee's determination at Step Two, it may apply for arbitration, in writing, within thirty (30) calendar days of receipt of that decision. The parties agree to use the American Arbitration Association for the selection of an arbitrator and that the arbitration shall be conducted pursuant to its Voluntary Labor Arbitration Rules. The arbitrator is empowered to hear and decide any disputed appeal. The arbitrator may not add to or in any way change any of the terms and conditions of this Agreement or the practices adhered to in the past by the Town and its employees.
 - B. The award of the arbitrator shall be final and binding.
 - C. All grievances shall be confidential in nature and no publicity shall be given to any grievance or the use of this process, except by the signed written consent of the grievant(s), the PBA and the Town.
- ?

ARTICLE 8

PERSONNEL FILE

An employee shall have the opportunity to review his/her personnel file in the presence of an appropriate official of the Town and at his/her option, with his/her PBA representative, upon three (3) working days' notice; provided however, where the employee's personnel file is kept at a location other than the employee's place of work, five (5) working days' notice shall be required. The employee may place in such file, a response of reasonable length, within two (2) weeks, to anything contained therein which such employee deems to be adverse; provided, however, an employee may not review letters of reference obtained in connection with his/her initial and subsequent employment.

ARTICLE 9

PAST PRACTICE

A practice will be any practice rule relating to a condition of employment which is established by (1) its clarity, consistency; (2) longevity and repetition; and (3) acceptability and mutuality. There will be no change in such condition without first having obtained agreement and consent of the PBA.

ARTICLE 10

LEGISLATIVE AUTHORITY

It is agreed between the parties that any provisions of this Agreement requiring legislative action to permit its implementation by amendment of the law or to provide the additional funds therefore, shall not become effective until the appropriate legislative body has given approval.

ARTICLE 11

HOURS OF WORK, WORKDAY, WORKWEEK AND WORK SCHEDULE

Section 1 - Workday and Workweek.

A. The workday for the employees shall be eight (8) hours within the scheduled tour of duty as set forth in this Article for a basic work year of 2,080 hours. The scheduled workweek shall not exceed forty (40) hours. The base hourly rate shall be calculated by taking the annual Base Wage, rank, differential and longevity (where applicable), divided by twenty-six (26) pay periods at eighty (80) hours each pay period. The overtime calculation is the hourly rate multiplied by

one hundred fifty (150%) percent. A fourteen-day pay period shall be used for the calculation of paychecks with the understanding that this is a codification of existing methodology which is not intended to and shall not result in any diminution in any unit employee's compensation.

Section 2 - Work Schedule.

A. The work schedule for all employees, except as set forth below, shall be five (5) consecutive days on, followed by two (2) consecutive days off (pass days) for two (2) weeks, followed by four (4) consecutive days on followed by two (2) consecutive days off for one (1) week and repeat the cycle.

B. The School Resource Police Officer (SRO) shall work Monday through Friday, with Saturday and Sunday as his/her days off (pass days) during the regularly scheduled school year only. The workday during the school year shall be 7:00 a.m. to 3:00 p.m. During the summer months when school is not in session the Employee shall work in the rotational schedule as set forth herein.

C. The Detective(s) shall work Monday through Friday, with Saturday and Sunday as his/her pass days (days off). The workday shall be 9:00 a.m. to 5:00 p.m. and 1:00 p.m. to 9:00 p.m. The Detectives will choose between these two (2) tours of duty annually, on a seniority basis.

D. The Patrol Lieutenant(s) and Detective Lieutenant(s) shall work Monday through Friday, with Saturday and Sunday as his/her days off (pass days). The workday shall be 7:00 a.m. to 3:00 p.m. The Lieutenant(s) work schedule may be modified to meet work demands.

Section 3 - Tour of Duty

A. There shall be three (3) tours of duty for all employees, except the SRO Police Officer, Detective(s) and Lieutenant(s), as set forth in Section 2 (B), (C) and (D) of this Article. They shall be as follows:

“A” line - 11:00 p.m. to 7:00 a.m. (permanent)

“B” line - 7:00 a.m. to 3:00 p.m.

“C” line - 3:00 p.m. to 11:00 p.m.

All patrol police officers shall bid for the permanently established “A” line tour of duty or the “B” or “C” line rotation. All bidding shall be by seniority, starting in late November and/or early December of each year for the ensuing calendar year. In the event there are insufficient volunteers for the “A” line, the remaining positions shall be filled through inverse seniority. All positions filled through inverse seniority are for a twelve (12) month period from time of appointment. In the event a less senior member becomes eligible to work the “A” line a more senior forced member has the option of coming off the “A” line, retaining all time worked and the less senior member will be instated in his/her place. All approved time off shall count as accrued time. In the event a member is unable to work the “A” line due to an injury or illness for

an extended period of time (5) days or more, their time will stop accruing and the member will be responsible for fulfilling his/her (12) month obligation upon returning to work. All other patrol employees shall rotate between the "B" and "C" line tours of duty as set forth in Section 2(A) of this Article. The rotation to each tour of duty shall occur on the employee's pass days (days off). In the event a vacancy in any tour of duty occurs during any year due to promotion, resignation, or retirement, only; the Chief of Police shall post the vacancy to be filled for a minimum of seven (7) calendar days prior to its filling, providing any employee with the opportunity to amend his/her original selections for the year as set forth herein. Thereafter, employees may be assigned in inverse order of seniority. In the event an employee volunteers to do a one (1) year assignment to the "A" line prior to being reached on the inverse seniority list, that employee will be eliminated from the forced inverse seniority list until it has cycled through. The parties agree that no employee working patrol duties on the three (3) tours of duty set forth herein shall be required to be involuntarily assigned to the "A" line tour of duty until all other full time employees have been involuntarily assigned. The parties also agree that this involuntary assignment is not applicable to the Sergeants. Employees with more than one year of service may bid for the Midnight shift. Permanent members of the midnight shift to include the Sergeant will agree to perform two weeks of the 3:00-11:00 pm shift and two weeks of the 7:00-3:00 pm shift on a yearly basis broken down as follows: one 3:00-11 shift and one 7-3 shift to run consecutively within the first six months of the calendar year. Then one 3:00-11:00 pm shift and one 7:00-3:00 pm shift to run consecutively within the second six months of the calendar year. Each member will be rotated individually rather than as a group. The rotation will be worked into the schedule to eliminate the need to fill the Midnight vacancy with a regularly scheduled 3:00 pm-11:00 pm or 7:00-3:00 pm member and shall not adversely affect any member's ability to request and receive benefit time.

B. There shall be a "D" line tour for one (1) Sergeant which is defined as follows: Three (3) consecutive "B" line tours of duty followed by two (2) consecutive "C" line tours of duty, followed by two (2) consecutive days off for two (2) consecutive weeks, followed by two (2) consecutive "B" line tours of duty, followed by two (2) consecutive "C" line tours of duty, followed by two (2) consecutive days off for one (1) week and repeat cycle. The "D" line will continue unless the patrol Sergeant staffing falls below four (4) sergeants. The Sergeants shall bid first by seniority in rank every year for either a permanent "A," "B," "C" and "D" line tour of duty. In the event there are an insufficient number of volunteers based on seniority, then the Chief of Police may assign Sergeants to the following tours of duty in the inverse order of seniority, first to the "A" line, then to the "D" line, then to the "C" line, then to the "B" line, until the staffing level has been achieved.

C. Tour of duty changes required to cover vacancies in the uniformed patrol work schedule shall first be attempted on a voluntary basis. In the event no employee volunteers to cover the vacancy, involuntary changes to an employee's work schedule may be made by the Chief of Police subject to the following restrictions:

1. Employees shall be ordered to changes in their regularly scheduled tour of duty on a reverse seniority basis subject to the limitations of this Article.

2. An employee shall not be changed from his/her regularly scheduled tour of duty to work on a holiday as enumerated in this Agreement.

3. An employee shall not be changed from his/her regularly scheduled tour of duty to work on his/her regularly scheduled day off or on a day in which the employee was on previously approved paid leave (e.g. vacation, personal leave, etc.)

4. There shall be a minimum of sixteen (16) hours off between the employee's last regularly scheduled tour of duty worked and the changed tour of duty.

5. An employee whose tour of duty is being changed involuntarily shall receive a minimum of (5) calendar days' notice prior to the reporting time.

6. This Article shall not apply to squad changes or squad realignments.

D. Each employee shall attend, as required, a one (1) hour training session each calendar month, except for previously approved paid leave, (e.g. vacation, personal leave, etc.) In the event there is no scheduled training session for that month, it shall not be required to be made up by the employee. The employee shall receive a minimum of five (5) calendar days' notice prior to the scheduled training session.

E. There shall be no lineup before the commencement of any tour of duty.

F. It is agreed and understood that any previously approved time off shall be granted to the employee filling the vacancy.

G. All employees shall be entitled to switch or swap their tours of duty with each other at their option, upon prior approval of the Chief of Police or designee, which shall not be unreasonably denied.

ARTICLE 12

K-9 POLICE OFFICER

Effective August 18, 2003:

1. The Chief of Police shall retain the sole discretion to select the dog(s), and employee(s) who will serve as dog handler(s) in the K-9 unit from employees represented by the PBA. Without limiting the sole discretion of the Chief of Police, the Town agrees that volunteers will be canvassed for consideration and assignment to the K-9 unit. The Chief of Police shall post any opening(s) or vacancy(ies) in the K-9 unit for at least fourteen (14) calendar days prior to any

interview in order to provide time for volunteers who are interested to submit their requests to the Chief of Police. All volunteers shall receive an interview.

2. To be eligible to serve as a member of the K-9 unit, the affected employee(s) shall meet and maintain the eligibility requirements, and abide by the K-9 Policy and Procedure Manual (Manual) attached hereto as Appendix "A" and made a part of this Agreement. A member of the K-9 unit shall commit to serving as the K-9 police officer for a minimum period of four (4) years after completion of the initial training. The employee(s) assigned to the K-9 unit shall remain eligible during this minimum period for all promotions. If promoted, he/she shall be removed from the K-9 assignment. The K-9 police officer shall advise the Chief of Police at least one (1) year prior to the end of the minimum period set forth herein whether he/she agrees to continue as a member of the K-9 unit for an additional two (2) years. Thereafter, the K-9 police officer shall advise the Chief of Police at least one (1) year prior to the end of his/her two (2) year commitment that he/she agrees to continue as a member of the K-9 Unit for an additional two (2) years.

3. The Chief of Police shall have the sole discretion to relieve a K-9 police officer at any time: (a) should the affected employee no longer meet or maintain the eligibility requirements of the attached manual; (b) should the affected employee violate the Manual or Department's Rules and Regulations; (c) should the affected employee perform the assignment unsatisfactorily; (d) upon the request from the employee(s) due to personal exigent circumstances; or (e) should the K-9 unit be disbanded, or the size of the K-9 unit be reduced. No due process or contractual rights shall be afforded prior to the removal from this assignment. However, should the employee be removed, he/she shall be paid the guaranteed overtime set forth in paragraphs 5(b) and 5(d) for the rest of the fiscal year, but in no event for a period of less than six (6) months. In that event, the employee shall retain his/her rights regarding work schedules contained in the existing Agreement, and shall be placed in a vacant tour if bidding for tours has already been completed. The employee shall be eligible to bid at the subsequent round of bid selection. If the employee resigns as K-9 police officer, no overtime payment for K-9 related responsibilities shall be owed beyond the period that he/she worked.

4. During any period in which an employee is assigned to the K-9 unit, he or she will forfeit his or her rights to bid for permanent tour of duty assignments under the terms of the Agreement. The K-9 police officer(s) shall be regularly scheduled to rotate B and C tours of duty. The Chief of Police shall also have sole discretion to modify tour of duty assignments of the dog handler(s) upon a minimum of forty-eight (48) hours notice, except in an emergency situation where notice may be shorter. The Town shall not incur any overtime costs in modifying the employee's tour of duty provided it does so within the following parameters: the employee is moved to one of the regularly scheduled tours (A, B or C), or has his/her originally scheduled tour varied by up to three (3) hours of the start time or ending time.

5. While an employee is assigned to the K-9 unit, he/she will be governed by and entitled to the following:

- a. Transportation time to and from a K-9 police officer's residence shall be included within his/her regularly scheduled tour of duty, provided the employee lives within the Town's jurisdiction. If the employee moves outside the Town's jurisdiction, then the time spent commuting from the employee's residence to the Town boundary line shall not be compensable. The times set for "tours of duty" in the current Agreement and in any succeeding Agreement shall apply to K-9 police officer(s), who shall be "in fact, ready for duty" when they leave their residences at the beginning of a tour of duty and until they return to their residences after a completion of a tour of duty. K-9 police officer(s) shall report in by radio to the central dispatcher of the police department upon leaving their residence for a regularly scheduled tour of duty and report out similarly upon arriving at their residence following a regularly scheduled tour of duty and shall perform regular patrol duties within the Town during transport to and from regular tour of duty.
- b. Employees assigned to the K-9 unit shall be entitled to two (2) hours per week of overtime payable at the rate of time and one half (1.5X) their regular rate in compensation of "off duty" police related activities with or concerning the police dog(s), such as training, to the extent that K-9 police officer(s) actually engage in such off duty police related activities with or concerning the police dog(s). Employees assigned to the K-9 unit shall not train their assigned police dog(s), wash or clean police cars, nor perform any other police-related activities with or concerning the police dog(s) on "off duty" time in excess of two (2) hours per week without specific permission of a superior police officer. The Town shall provide for all required and necessary training of the dog(s) and characterize same as "on duty time".
- c. Regular and/or required veterinary services for the police dog(s) shall be scheduled during work hours to the extent practical. In that event, the K-9 police officer shall be relieved from his/her tour of duty for the time required to fulfill this requirement. Thereafter, the K-9 police officer shall report back to work and finish his/her tour of duty. The K-9 police officer shall not schedule veterinary services at times other than when he/she is scheduled "on duty" without approval of the Chief of Police or designee, except in emergencies. In that event, the K-9 police officer shall be paid overtime pursuant to the contract between the Town and PBA.
- d. Employees assigned to the K-9 unit shall be responsible for all non-police related activities reasonably necessary for the care and maintenance of their assigned police dog(s), and cleaning and maintaining the areas and equipment at which the police dog(s) are housed. All such activities shall be performed on "off duty" time and no such activities shall be performed during "on duty" time. Employees assigned to K-9 units shall be paid by the Town for off duty, non-police related activities at Federal or New York State minimum wage (whichever is higher) at

time and one-half (1.5X), up to a maximum of ten (10) hours per week. The parties agree that ten (10) hours per week is a fair and reasonable estimate of the time realistically required to provide such care for the police dog(s).

- e. In the event a K-9 police officer(s) is "called in" while off duty, he/she shall be compensated pursuant to the Agreement between the Town and the PBA.
 - f. Except to the extent herein the K-9 police officer shall be entitled to all other terms and conditions of employment pursuant to the Agreement between the Town and the PBA. This shall include the fact that paid leave (i.e., sick leave, personal leave, etc.) shall constitute time worked for purposes of computing overtime.
6. The following expenses associated with the K-9 unit shall be provided by the Town at no cost:
- a. The purchasing of the dog(s).
 - b. A marked take home police vehicle for transporting the police dog(s), which shall remain the property of the Town. The police vehicle shall contain a cage for the dog(s).
 - c. A chain link fence for enclosing an area for the dog(s) to live at the K-9 police officer's residence, which, if feasible, shall remain the property of the Town.
 - d. A "dog house," which shall remain the property of the Town.
 - e. Alternate kennel arrangements for housing the dog(s) when the K-9 police officer is unavailable, or as otherwise becomes necessary (i.e., vacation, illness, etc.).
 - f. All veterinary service(s) and related expenses for the care of the dog(s) which shall receive the prior approval of the Chief of Police or designee.
 - g. All necessary and required equipment which shall receive the prior approval of the Chief of Police or designee.
 - h. All dog food.
7. The Town and the PBA agree that the employee(s) assigned to the K-9 unit shall be considered "on duty" for the purposes of receiving General Municipal Law Section 207-c status, and applying to the New York State Police and Fire Retirement System, with respect to becoming disabled whenever that employee is performing tasks necessary and reasonable involving the training, care and maintenance of the dog(s), regardless of where or when these tasks are performed.

8. The Town will defend and indemnify each employee assigned to the K-9 unit for any injuries or damages caused by their dog(s) which occur or are claimed to have occurred in the performance of their duty during the period in which such employees are or were assigned to the K-9 unit.

9. All dogs purchased and provided to the K-9 unit shall remain the property of the Town until the retirement of the dog(s) from the K-9 unit. At that time, the K-9 police officer assigned to that dog(s) shall be offered the opportunity to purchase the dog(s) from the Town for the sum of one dollar (\$1.00), and if purchased, shall become owner of the dog(s).

ARTICLE 13

DISCIPLINARY PROCEDURE

The disciplinary procedure prescribed in Section 75 and 76 of the Civil Service Law shall apply to all unit employees, except as the parties agree to modify the Civil Service Law Section 75 and 76 procedures as follows:

1. The hearing officer shall be selected by mutual agreement of the Town and the PBA. If the Town and the PBA are unable to agree upon the selection of a hearing officer within ten (10) days after the date disciplinary charges are filed, then the Town shall request a list of individuals from the Public Employment Relations Board from which the parties will designate a hearing officer pursuant to Part 207 of PERB's Rules and Procedures.
2. The hearing officer's findings regarding guilt or innocence shall be binding upon the Town, the PBA and the charged employee, but findings as to penalty, if any, shall be recommendatory only.

ARTICLE 14

DRUG AND ALCOHOL TESTING POLICY AND PROCEDURES

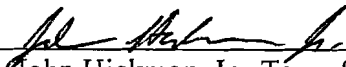
The policy and procedures pertaining to the testing of unit employees shall be as prescribed in Appendix B.

ARTICLE 15

DURATION

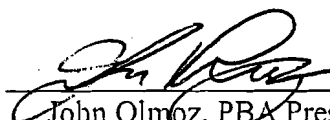
The provisions of this Agreement shall be in effect as of January 1, 2007 and shall remain in effect until December 31, 2009.

TOWN OF EAST FISHKILL

By: 
John Hickman, Jr., Town Supervisor

Dated: 1-16-08

TOWN OF EAST FISHKILL POLICE BENEVOLENT ASSOCIATION, INC.

By: 
John Olmoz, PBA President

Dated: 1/16/08

APPENDIX A

GENERAL MUNICIPAL LAW SECTION 207-c PROCEDURE

Section 1. Applicability

The following procedures shall regulate the application and benefit award process for GML § 207-c status and benefits.

Section 2. Definitions

- a) **Employer:** The Town of East Fishkill
- b) **Chief:** The Chief of Police of the Town of East Fishkill
- c) **Claimant/Recipient:** Any Police Officer of the Town of East Fishkill.
- d) **Claims Manager:** The individual designated by the Employer who is charged with the responsibility of administering the procedures herein which may include the Chief of Police.
- e) **Section 207-c Benefits:** The regular salary or wages and medical treatment and hospital care payable to an eligible Claimant/Recipient under Section 207-c. In addition to receiving his/her regular salary or wages (which includes longevity) and payment of medical treatment and hospital care, an employee receiving Section 207-c benefits shall be entitled to:
 - 1. health insurance, dental and optical/vision in the same manner in which the employee was receiving when working;
 - 2. accrue or be credited with their respective cleaning or purchasing of work clothing each calendar year. In the event the Claimant/Recipient is out of work over ninety (90) calendar days each calendar year, the respective uniform maintenance amount shall be prorated the following year;
 - 3. accrue or be credited with all paid leaves, such as, sick, vacation, holiday and personal leave as set forth in the collective bargaining agreement. In the event the Claimant/Recipient is out of work over ninety (90) calendar days each calendar year, the respective paid leaves shall not accrue or be credited for the remaining part of that calendar and/or be prorated the following year;
 - 4. all other benefits of the collective bargaining agreement.

Section 3. Application for Benefits

- a) Any Claimant who is injured in the performance of his/her duties, or is taken sick as a result of the performance of his/her duties, shall file a written departmental incident report and Workers' Compensation Claim within forty-eight (48) hours, if practical, and an application for benefits with the Claims Manager within fifteen (15) calendar days after the incident giving rise to the injury or sickness or within fifteen (15) calendar days after the Claimant should have become aware of the injury or illness. Upon a showing of good cause, an application for Section 207-c benefits may be entertained in the discretion of the Claims Manager, notwithstanding the failure to file the application report within the required fifteen (15) calendar days.
- b) All applications for Section 207-c benefits shall be submitted in writing, using official application form(s) attached hereto, which shall include the following:
 - 1. the time, date and place where the injury or illness producing incident occurred;
 - 2. a detailed statement of the particulars of the incident;
 - 3. the nature and extent of the Claimant's injury or illness;
 - 4. the Claimant's mailing address;
 - 5. the names of any potential witnesses; and
 - 6. the name and address of all of the Claimant's treating physicians.
- c) Where the claimant's injury or illness prevents him/her from filing the application for 207-c benefits, an application for Section 207-c benefits may be filed on behalf of a Claimant within fifteen (15) calendar days of either the date of the incident giving rise to the claim or of the date of the discovery of any incident which produced the injury or illness. The application may be made by either the Claimant or by some other person authorized to act on behalf of the Claimant.

Section 4. Authority and Duties of Claims Manager

- a) The Claims Manager shall have the sole and exclusive authority to initially determine whether a Claimant is entitled to Section 207-c benefits. In making the determination, the Claims Manager shall examine the facts and circumstances giving rise to the application for such benefits. The Claims Manager shall provide his/her determination within thirty (30) calendar days after receiving the application for benefits.

b) The Claims Manager shall have the authority to:

1. employ experts and specialists to assist in the rendering of the determination of eligibility;
2. require the production of any book, document or other record that pertains to the application, injury, or illness;
3. require the Claimant to submit to one (1) or more medical examinations related to the illness or injury;
4. require the Claimant to sign forms for the release of medical information that bear upon the application;
5. require the attendance of the Claimant and all other witnesses for testimony upon reasonable notice; and
6. do all that is necessary or advisable in the processing of said application.

A Claimant must cooperate with the Employer and provide all necessary information, reports and documentation. A determination of initial eligibility shall be made within a reasonable time, based upon the investigation without holding a hearing.

The Claims Manager shall mail a written copy of his/her decision to the Claimant, Employer and the Chief within five (5) calendar days of his/her determination. The written determination shall set forth the reasons for the Claims Manager's decision.

A written request for a hearing to appeal from an initial determination of the Claims Manager must be filed with the Claims Manager within fifteen (15) calendar days after receipt of the determination by the Claimant. The Claims Manager shall arrange for a hearing to be held pursuant to Section 11 of this procedure.

Section 5. Time Off Pending Initial Determination

- a) Pending the initial determination of benefit eligibility, any time off taken by the Claimant that he/she claims is the result of the injury or illness giving rise to the application shall be without charge to the Claimant's time/leave accruals.

Section 6. Medical Treatment

- a) After the filing of an application, the Claims Manager may require a Claimant to submit to such medical examinations as may be directed by the Claims Manager, including examinations necessary to render an initial or final determination of eligibility, to determine if the Claimant or Recipient is able to perform his/her regular duties, or light duty assignments as set forth in Section 7 of this procedure,

and/or examinations required to process an application for ordinary and accidental disability retirement. The Claims Manager may also require a Claimant or Recipient to submit to reasonable medical treatment. Such treatment may include, but is not limited to medical and/or surgical techniques deemed necessary by the appointed physicians. Any Section 207-c Recipient who refuses to accept such examination(s) and/or medical treatment shall be deemed to have waived his/her rights under Section 207-c after such refusal subject to such appeal pursuant to this procedure. The Claims Manager shall provide written notice to the Claimant or Recipient that his/her benefits are being terminated pursuant to Section 10 of this procedure, and the basis of the refusal. A Claimant or Recipient contesting the termination must make a written request for a hearing to appeal to the Claims Manager within fifteen (15) calendar days after receipt of the termination notice, and the Claims Manager shall arrange for a hearing pursuant to Section 11 of this procedure. The Claimant or Recipient shall cooperate in scheduling of the examination(s) and treatment, providing medical records relating to the injury or illness to the Employer's examiner, and in answering questions placed by the health care provider relating to the injury or illness.

- b) **Medical Reports.** All physicians, specialists and consultants treating a Claimant or Recipient of Section 207-c benefits shall be required to file a copy of any and all reports with the Claims Manager. The Claimant or Recipient shall execute all necessary releases and shall be responsible for the filing of said reports. The Claimant or Recipient shall receive a copy of the medical reports filed with the Claims Manager. The medical reports which are filed shall remain confidential and only released for purposes of administering the procedures herein, Workers' Compensation and applications made pursuant to the Retirement and Social Security Law.

Section 7. Light Duty Assignments

- a) Any Recipient receiving Section 207-c benefits may be examined by a physician chosen by the Claims Manager to determine the Recipient's ability to perform certain specified light duty. Any Recipient deemed able to perform specified light duty by the Claims Manager, based upon medical documentation, may be directed by the Chief, in his or her sole discretion, to perform such light duty.
- b) A Recipient who disagrees with the order to report for light duty and has conflicting medical documentation that he/she is unable to undertake light duty shall submit the medical documentation to the Claims Manager within fifteen (15) calendar days of receipt of the order to report for light duty. The Claims Manager shall review said medical documentation and within ten (10) calendar days of its receipt shall issue to the Chief and Recipient a decision as to whether the order to return to light duty should be confirmed, modified or withdrawn. If the Recipient is dissatisfied with the decision, he/she may request, in writing, a hearing to appeal from the decision within fifteen (15) calendar days after mailing of the decision. The Claims Manager shall arrange for a hearing to be held pursuant to Section 11 of this procedure.

- c) Payment of full Section 207-c benefits shall be continued with respect to a Recipient who disagrees with the order to report to light duty based upon conflicting medical documentation, until it is determined whether the Recipient is capable of performing the light duty as set forth in Section 2 above. Where a final determination has been made that the Recipient can report to and perform light duty, and that individual fails or refuses to perform light duty, if same is available and offered, that Recipient's 207-c status shall be discontinued.
- d) A Recipient of Section 207-c benefits who is on light duty shall be assigned to a tour/work schedule in accordance with the collective bargaining agreement.

Section 8. Changes in Condition of Recipient

- a) Every Section 207-c Recipient shall be required to notify the Claims Manager of any change in his or her condition which may enable the Recipient to return to normal duties or be classified as eligible for light duty. This notice shall be made in writing within forty-eight (48) hours of any such change.

Section 9. Right of Perpetual Review and Examination

- a) The Claims Manager shall have the right to review the eligibility of every Section 207-c Recipient throughout the period during which benefits are received. This right shall include, but shall not be limited to:
 - 1. requiring Recipient to undergo medical examination(s) and reasonable treatment by physician(s) or medical providers chosen by the Claims Manager;
 - 2. requiring Recipient to apprise the Claims Manager as to their current condition; and
 - 3. requiring Recipient(s) or any other involved parties to provide any documentation, books or records that bear on the Recipient's case.

Section 10. Termination of Benefits

- a) If, for any lawful reason, including but not limited to all those reasons specified in these procedures, the Claims Manager determines that a Recipient is no longer or was never eligible for benefits, the Claims Manager shall notify the Recipient in writing of the termination and reason(s) for the termination. Notice of such termination and the reasons therefore shall be served by mail upon the Recipient and the Chief. If the Recipient requests a hearing pursuant to Section 11 of this procedure, pending a determination with respect to the Recipient's continued eligibility, the Recipient shall continue to receive Section 207-c benefits.

Section 11. Hearing Procedure

- a) Hearings requested under the provisions of this procedure shall be conducted by a neutral Hearing Officer related to the issues to be determined. The Claimant or Recipient may be represented by a designated representative and may subpoena witnesses. Each party shall be responsible for all fees and expenses incurred in their representation. Hearing officers shall be selected in the manner prescribed in Article 13 of the collective bargaining agreement.
 - 1. The scope of review of the Hearing Officer shall be whether the Claims Manager had a reasonable basis for his/her determination.
 - 2. The hearing shall have a transcribed record, which shall be the official record of the proceeding. The Employer shall provide a copy to the Claimant or Recipient or his/her designated representative and Hearing Officer upon receipt. The Hearing Officer shall render and submit to the Mayor, with a copy to the Claimant or Recipient's representative, written Findings and Recommendations within thirty (30) calendar days after the close of the hearing. The Mayor shall provide his/her written determination within ten (10) calendar days after receipt of the Findings and Recommendations. Any such determination of the Mayor shall be reviewable pursuant to the provisions of Article 78 of the Civil Practice Law and Rules. The fees and expenses of the hearing, including transcript costs and fees of the Hearing Officer, shall be paid by the Employer.
- b) In the event the dispute is solely a medical one between the employee's doctor and the Employer's doctor as to whether the employee is or was disabled and unable to perform his/her regular duties, the parties agree to allow the respective doctors to select a third (3rd) mutually designated physician whose medical opinion will be binding upon the parties as to disability. If the doctors are unable to agree upon a third (3rd) neutral physician, each doctor shall submit their respective name to be appointed from an appropriate certified medical board for the injury or illness in question. The fees and expenses of the physician shall be paid equally by the parties.

Section 12. Coordination with Workers' Compensation Benefits

- a) Upon payment of 207-c benefits, any wage or salary benefits awarded by the Workers' Compensation Board shall be payable to the Employer for periods during which a Claimant received 207-c benefits. If the Claimant shall have received any Workers' Compensation benefits hereunder which were required to be paid to the Employer, the Claimant shall repay such benefits received to the Employer, or such amounts due may be offset from any Section 207-c benefits thereafter. Upon termination of 207-c benefits, any continuing Workers Compensation benefits shall

- be payable to the Claimant. The parties shall not be bound by a determination of the Workers' Compensation Board.

Section 13. Discontinuation of Salary and Wage Benefits Upon Disability Retirement

- a) Payment of Section 207-c benefits shall be discontinued with respect to any Claimant or Recipient as provided by law.

Section 14. Miscellaneous

- a) A Claimant who is receiving medical treatment while working shall make every effort to schedule such medical examinations or treatment during non-work hours.
- b) It is specifically agreed and understood that any reference related to General Municipal Law Section 207-c benefits is informational only, and is not intended to reduce the benefits or rights contained in the statute or any amendments made thereto. The intent is to read this procedure in conformity with General Municipal Law Section 207-c.
- c) The parties agree that any disputes relating to the administration of the provisions of this procedure shall be resolved through the hearing procedure contained in Section 11 herein and all other disputes shall be processed through the Grievance Procedure in the collective bargaining agreement.
- d) After returning to full duty from a Section 207-c injury or illness, a claim for benefits based on a recurrence of the injury or illness shall be treated as a new application for Section 207-c benefits.

**THE TOWN OF EAST FISHKILL POLICE DEPARTMENT
GENERAL MUNICIPAL LAW SECTION 207-c**

APPLICATION

1. _____
Name of Officer
2. _____
Address to which correspondence concerning application should be directed.
3. _____ 4. _____
Telephone Number Age
5. _____
Name of Supervisor
6. _____
Current Job Title
7. _____
Occupation at Time of Injury/Illness
8. _____
Length of Employment
9. _____ 10. _____ 11. _____
Date of Incident Day of Week Time
12. (a) _____
Name of Witness(es) and Address (if available)
(b) _____
(c) _____
13. (a) _____
Names of co-employees at the incident site
(b) _____
(c) _____

14. Describe what the officer was doing when the incident occurred. (Provide as many details as possible. Use additional sheets if necessary.) _____

15. Where did the incident occur? Specify. _____

16. How was the claimed injury or illness sustained? (Describe fully, stating whether injured person slipped, fell, was struck, etc., and what factors led up to or contributed. Use additional sheets if necessary.) _____

17. When was the incident first reported? _____
To Whom? _____ Time _____
Witness(es) (if any) _____
18. Was first aid or medical treatment authorized? _____
By Whom? _____ Time _____
19. Name and address of attending physician _____

20. Name of Hospital _____
21. State name and address of any other treating physician(s) _____
22. State nature of injury and part or parts of body affected _____

23. The name and address of my representative to whom a copy of any decision concerning the application should be sent: _____

I SUBMIT THIS APPLICATION PURSUANT TO THE POLICY AND PROCEDURE GOVERNING THE APPLICATION FOR AND THE AWARD OF BENEFITS UNDER SECTION 207-c OF THE GENERAL MUNICIPAL LAW. THE STATEMENTS CONTAINED IN THIS APPLICATION ARE, TO THE BEST OF MY KNOWLEDGE, ACCURATE AND TRUE.

(Signature of Applicant if other than Injured Officer)

(Date)

Application Received By:

(Signature of Person Authorized to Receive Application)

(Date)

Date of Report

_____, New York

Signature of Injured Officer

TOWN OF EAST FISHKILL POLICE DEPARTMENT

TO: _____

YOU ARE HEREBY AUTHORIZED TO RELEASE TO THE TOWN OF EAST FISHKILL POLICE DEPARTMENT, OR ITS REPRESENTATIVES, INFORMATION INCLUDING PATIENT FILES, MEDICAL CHARGES, PHYSICIAN NOTES, X-RAYS AND THE RESULTS OF ANY OTHER DIAGNOSTIC TESTS REGARDING MEDICAL OR OTHER REMEDIAL TREATMENT PROVIDED TO ME ON ACCOUNT OF THE INJURY OR SICKNESS FOR WHICH I HAVE APPLIED FOR OR RECEIVED BENEFITS UNDER GENERAL MUNICIPAL LAW SECTION 207-c.

DATE OF OCCURRENCE FOR WHICH APPLICATION IS MADE:

Signature of Applicant
(Type or Print Name)

Date

STATE OF NEW YORK)
) ss:
COUNTY OF DUTCHESS)

On the ____ day of _____, _____ before me, the undersigned, a Notary Public in and for said state, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual or the person on behalf of which the individual(s) acted, executed the instrument.

Notary Public

APPENDIX B

DRUG AND ALCOHOL TESTING POLICY FOR POLICE OFFICERS

I. INTRODUCTION

A. Background

The Town of East Fishkill and the Town of East Fishkill Chief of Police recognize the importance of a safe, efficient and healthy work environment for all employees. This means that all employees must be able to work in a drug and alcohol free environment.

Due to the particular importance of assuring that police officers are free of the effects of drug and alcohol use, the Town, the Town of East Fishkill Chief of Police, and the Town of East Fishkill Police Benevolent Association, Inc., agree to implement a random drug testing program for all covered employees. The purpose of this policy is to comply with this contractual agreement, implementing a policy to assure safe and healthy operations.

B. Goals

This Policy is designed to:

1. Protect employees and the public from injury and economic loss caused by employees affected by drugs and alcohol.
2. Help create and maintain an environment that discourages use, possession, and sale of drugs on or off Town property.
3. Provide education and training on the effects and indicators of drug and alcohol use.

4. Encourage employees needing assistance to consult an Employee Assistance Program.
5. Provide for disciplinary action procedures and rehabilitation where appropriate for employees who fail verified drug tests.
6. Provide for disciplinary action and rehabilitation programs for employees who fail to pass alcohol tests so that they may qualify for return to duty.

C. Scope and Applicability

1. This policy is intended to provide procedure and protocol for random drug testing pursuant to negotiated agreement, and reasonable suspicion based testing for drugs and alcohol as a policy matter.
2. This policy is designed to provide for discipline of any covered employee who fails a verified random drug test, or who fails a reasonable suspicion drug or alcohol test.
3. All issues relating to implementation and application of the negotiated random testing procedure shall be subject to grievance and arbitration procedures as may be found in the applicable collective bargaining agreement. This shall not include violations of a last chance agreement as outlined in Article IX of this policy.
4. Participation and compliance with this Policy are a requirement of employment for all covered employees.

D. Definitions and Discussion

1. For purposes of this Policy, "prohibited drugs" are defined and limited to the following prohibited substances:

- a) Marijuana
- b) Cocaine
- c) Opiates
- d) Amphetamines
- e) Phencyclidine

2. Alcohol

As used herein, alcohol means the intoxicating agent in the beverage alcohol, ethyl alcohol or other low molecular weight alcohols, including methyl or isopropyl alcohol. Alcohol use means the consumption of any beverage, mixture or preparation, including any medication containing alcohol.

3. Alcohol Misuse

Town of East Fishkill and the Town of East Fishkill Chief of Police recognize that the use of alcohol is legal when done off the job and in a manner that cannot affect job performance. Alcohol misuse consists of a violation of the following requirements:

- a) No employee shall report for duty or remain on duty while having a blood alcohol concentration of 0.04 or greater. Exceptions to remaining on duty with an alcohol concentration of .04 or greater may be made only on a case by case basis by a the Chief of Police or his designee for police officers engaged in officially sanctioned undercover operations.
- b) Under no circumstances will such a police officer be allowed to operate a Police vehicle in violation of New York State driving while intoxicated or driving while ability impaired laws.

- c) No employee shall use alcohol within 4 hours prior to reporting for duty.
 - d) No employee required to take a post-accident alcohol test shall use alcohol for eight hours following the accident, or until the employee undergoes a post-accident alcohol test, whichever occurs first.
4. "Substance abuse professional (SAP)" means a licensed physician, or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Counselors Certification Commission), with knowledge of and clinical experience in the diagnosis and treatment drug and alcohol-related disorders.

II. EDUCATION AND TRAINING

- A. The Town, Chief of Police, or a contract vendor engaged by either, will conduct an employee education and training program for all covered employees, consisting of at least 60 minutes of instruction.
- B. The education component shall include display and distribution of informational material, including a telephone number for an Employee Assistance Plan and copies of this Policy.
- C. The training component for covered employees shall include information on the effects and consequences of prohibited drug use on personal health, safety, and work environment, the signs and symptoms that may indicate prohibited drug use, the effect of alcohol misuse on an individual's health, work, and personal life, signs and symptoms of an alcohol problem (the employee's or a co-worker's)

and available methods of intervening when an alcohol problem exists, including confrontation, referral to EAP, and/or referral to management.

D. Supervisory employees shall receive at least 60 minutes of additional training on the physical, behavioral, and performance indicators of probable drug use.

E. Records shall be maintained of all education and training conducted. Attendance of employees being trained will be recorded. Attendance is mandatory for all covered employees and supervisors.

III. TESTING FOR PROHIBITED DRUGS AND ALCOHOL

A. Types of Testing Allowed

1. Analytical testing of covered employees for prohibited drugs and for alcohol misuse shall be conducted as provided by this Policy and as required by law or regulations. The six testing categories are:

- a) Pre-Employment Testing
- b) Reasonable Suspicion Testing
- c) Post Accident Testing
- d) Random Testing
- e) Return to Duty Testing
- f) Follow-up Testing

B. Testing

1. Pre-Employment Testing

a) All applicants for employment in or assignment to a covered position, or transfers to such positions or assignments, shall be tested for prohibited drugs.

b) The drug tests required by this section shall be administered only after the applicant is informed in writing that the urine sample being collected will be tested for the five classes of prohibited drugs. Pre-employment testing will be administered as recommended by the Municipal Police Training Council (MPTC).

c) An applicant who fails a drug test shall not be hired for, or assigned to a covered position.

2. Reasonable Suspicion Testing

a) Covered employees are prohibited from using prohibited drugs or misusing alcohol as described herein. A covered employee who is reasonably suspected by a supervisor of using a prohibited drug or the misuse of alcohol, or both, shall be administered a drug test (urine or hair) or alcohol test (breath) or both, as appropriate. An employee is reasonably suspected of using a prohibited drug or of the misuse of alcohol, or both, when one trained supervisor, or an officer in charge of a shift, who has been trained in the detection of drug use or in the detection of alcohol misuse makes specific, contemporaneous articulable observations concerning the appearance, behavior, speech or body odors of the employee indicating such use or misuse, or both. The person who makes the

determination that reasonable suspicion exists to conduct a drug or alcohol test shall not conduct the actual test of the employee.

b) Alcohol testing is authorized only if the observations stated above are made during, just preceding, or just after the period of the workday that the employee is required to be in compliance with the restrictions on alcohol use. When a supervisor or an officer in charge of a shift determines that a reasonable suspicion alcohol test should be administered, the employee shall not perform or continue to perform his or her duties until (1) an alcohol test is administered and the employee's alcohol concentration measures less than 0.02, or (2) the start of the employee's next regularly scheduled duty period, but not less than 8 hours following the determination that there is reasonable suspicion to believe that the employee has engaged in misuse of alcohol.

3. **Post Accident Testing**

a) For purpose of this Policy, the term "accident" means an occurrence associated with the operation of a vehicle causing (1) the death of an individual, (2) bodily injury to an individual who immediately receives medical treatment away from the scene of the accident, or (3) disabling damage to one or more vehicles requiring the vehicle to be transported away from the scene by a tow truck or other vehicle. The phrase "disabling damage" means damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs.

b) Each covered employee involved in an accident shall be tested for alcohol and drugs if the accident involved the loss of human life or if the

employee received a citation under state or local law for a moving traffic violation arising from the accident.

c) An employee who is subject to post-accident testing shall remain readily available for such testing or may be deemed to have refused to submit to testing. Nothing in this paragraph shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

d) A post-accident alcohol test shall be administered within 8 hours of the accident. A post-accident drug test shall be administered within 32 hours following the accident.

4. Random Testing

a) All covered employees shall be subject to random drug testing.

b) The selection of employees for random drug testing shall be made by a scientifically valid method, such as a random number table or a computer based random number generator that is matched with the employee's social security number, payroll identification number or other comparable identifying number. Each employee shall have an equal chance of being tested each time selections are made.

c) The number of random drug tests conducted each year shall be equal to at least 50% of the number of employees subject to random drug testing.

d) Random drug tests are unannounced, and the dates of administering them shall be spread reasonably throughout the calendar year.

e) Each employee who is notified of selection for random drug testing shall proceed to the test site immediately, or, if the employee is on duty at the time of notification, the employee shall leave duty as authorized by competent authority and proceed to the testing site as soon as possible.

f) An employee shall only be tested for alcohol upon reasonable suspicion, or in accordance with a post-accident test. Applicants for covered positions will be tested for drugs, but not for alcohol.

g) As far as possible, covered employees will be sent to testing during regularly scheduled duty hours, however they may be sent off duty if necessary and paid according to the applicable collective bargaining agreement, policy or law.

5. Return to Duty Testing

a) Before an employee returns to duty after engaging in alcohol misuse, the employee shall undergo a return to duty alcohol test with a result indicating an alcohol concentration of less than 0.02.

b) If an employee is to be returned to duty after engaging in drug use, the employee shall undergo a return to duty test indicating a verified negative result for drug use. This return to duty test does not apply in cases where a last chance agreement has been violated and a termination decision has been made by the Chief of Police.

6. **Follow-up Testing**

a) Following a determination by a substance abuse professional that an employee is in need of assistance in resolving problems associated with alcohol misuse, the employee shall be subject to unannounced follow-up alcohol testing as directed by a substance abuse professional.

b) The number and frequency of follow-up tests shall be as directed by the substance abuse professional, and shall consist of at least six tests in the first twelve months following the employee's return to duty.

c) The employee's supervisor may direct the employee to undergo return-to-duty and follow-up testing for both alcohol and drugs, if the substance abuse professional determines that returning-to-duty and follow-up testing for both alcohol and drugs is necessary for that employee.

d) Follow-up testing shall not exceed 60 months from the date of the employee's return to duty.

e) The substance abuse professional may terminate the requirement for follow-up testing at any time after the first six tests have been administered if the substance abuse professional determines that such testing is no longer necessary.

f) If, and when, an employee who has tested positive for illegal drugs is allowed to return to full duty, such an employee shall be subject to unannounced follow-up testing for at least twelve (12) months, but not for more than sixty (60) months. The frequency and duration of the follow-up testing will be recommended by a substance abuse professional (SAP) as long as a minimum

of six (6) tests are performed during the first twelve (12) months after the employee has returned to duty. The cost of all follow-up testing shall be paid in full by the Employer.

IV. COLLECTION AND ANALYSIS

A. All collection of urine or breath for random testing shall be performed at a Town facility or facilities or at the site of an independent health provider. Employees shall be advised of the location of the testing site during training on alcohol and drugs, and by a supervisor at the time testing is required.

B. The collection site for urine samples will provide a privacy enclosure for urination, a toilet, a suitable, clean, writing surface, and a water source for hand washing which, if practicable, will be outside the privacy enclosure. Any water source within the privacy enclosure will be secured to prevent its use to adulterate the urine sample.

C. The employee will be assured of privacy during urination except in circumstances where there is evidence that a prior sample was altered, adulterated or tampered with, in which case a retest will be required and privacy will not be assured.

D. The urine specimen must be split and poured into two specimen bottles. This provides the employee with the option of having an analysis of the split sample performed at a separate laboratory if the primary specimen test result is verified positive after an initial screening. A second, confirmatory test is to be accomplished by gas chromatography or mass spectrometry.

E. Testing will be conducted at a laboratory certified by the U.S. Department of Health and Human Services.

F. Cutoff levels as established for each drug class by the Department of Health and Human Services (DHHS) shall be utilized for initial and confirmatory testing. Tested levels which fall below these cutoff levels shall be considered negative results.

G. All drug testing laboratory results will be reviewed by a qualified Medical Review Officer (MRO) to verify and validate test results. A MRO is a licensed physician responsible for receiving laboratory results generated by a drug-testing program who has knowledge of substance abuse disorders and has relevant training and qualifications.

H. The MRO will review and interpret all confirmed positive tests by reviewing the employee's medical history, including any medical records and biomedical information provided, affording the employee a reasonable opportunity to discuss the test result, and will decide whether there is a legitimate medical explanation for the result including legally prescribed medication.

I. The MRO will notify each employee who has a verified positive test that the employee has 72 hours in which to request a test of the split specimen at a separate certified laboratory.

J. Upon completion of the MRO's review the MRO shall report each verified test result to the Chief of Police. Once notified of a verified positive test result, the Chief of Police will remove the employee from duty. Removal from duty will be immediate and will not await the results of any requested retest.

V. ALCOHOL TESTING PROCEDURES

A. Alcohol testing shall be conducted by collection of a breath specimen through the use of an evidential breath-testing device (EBT) that is approved by the National Highway Traffic Safety Administration or the NYS Division of Criminal Justice Services. The test must be performed by a breath alcohol technician (BAT), who is trained to proficiency in the operation of the EBT being used and in the alcohol testing procedures specified in the regulations.

B. The person who will serve as the BAT will be identified to employees and by a supervisor at the time of selection for an alcohol test.

C. In so far as possible, alcohol tests will be conducted at a site that provides privacy to the individual being tested.

D. Upon arrival at the alcohol collection site, the employee must provide positive identification to the BAT. After testing procedures are explained to the employee, the employee and the BAT must complete, date, and sign the alcohol testing form.

E. Screening Test

1. The BAT will open an individually sealed, disposable mouthpiece in view of the employee and attach it to the EBT. The BAT will instruct the employee to blow forcefully into the mouth piece for at least six seconds or until an adequate amount of breath has been obtained.

2. Following the screening test, the BAT must show the employee the result displayed on the EBT or a printed result. If the result of the screening test is an alcohol concentration of less than 0.02, no further testing is required and the

test will be reported to the employer as a negative test. The employee may then return to his or her duty.

F. Confirmation Test

1. If the result of the screening test is an alcohol concentration of 0.02 or greater, a confirmation test must be performed.

2. The confirmation test must be conducted at least 15 minutes, but not more than 20 minutes, after completion of the initial test. The employee will be instructed not to eat, drink, or put any object or substance in his/her mouth, and will be instructed not to belch to the extent possible while awaiting this confirmation test. The confirmation test will be performed whether or not the employee complies with such instructions.

3. The confirmation test is conducted using the same procedures as the screening test. A new mouthpiece will be used.

4. If the initial and confirmation test results are not identical, the confirmation test result is deemed to be the final result.

5. The BAT will transmit all results to the Chief of Police or designee in a confidential manner. If the employee must be removed from duty, the BAT will notify the Chief of Police or designee and the employee will be removed from duty without delay.

6. Where a reasonable suspicion or post-accident alcohol test indicates an alcohol concentration of .02 percent or more but less than .04 percent, the employee shall not return to duty until at least 24 hours after such test.

7. The unauthorized use of alcoholic beverages on duty or in a way that impacts an employee's job duties may violate Town of East Fishkill disciplinary policy, workplace rules or statutes. Violation of any applicable policy or law may subject the covered employee to discipline up to and including termination, to be dealt with in accordance with any applicable collective bargaining agreement.

VI. **VIOLATIONS**

The following conduct shall be considered a violation of this Policy:

A. Taking a drug or alcohol test required by this Policy leading to a verified positive result. For purposes of this paragraph A, a verified positive result includes an alcohol test indicating an alcohol concentration of .04 percent or more.

B. Using alcohol while on duty, unless authorized by competent authority as part of an official undercover investigation.

C. Using alcohol within eight hours after an accident requiring a post-accident alcohol test or until the employee undergoes a post-accident alcohol test, whichever occurs first.

D. Refusal to submit to a post-accident alcohol or drug test, a random drug test, a reasonable suspicion alcohol or drug test, a follow-up alcohol or drug test, or any other alcohol or drug test required by this policy.

E. Failure to produce an adequate urine or breath sample when selected for testing, where such failure is not consistent with a legitimate medical

excuse. The burden of establishing a legitimate medical excuse falls on the covered employee.

F. Altering, adulterating, or tampering with a sample used in a drug or alcohol test required by this Policy, or otherwise distorting the results of a required drug or alcohol test or attempting to do any of the following:

G. Refusal to sign consents or releases in connection with drug or alcohol tests.

H. Reporting for duty or remaining on duty while having an alcohol concentration of 0.04 or greater, except for situations authorized in Section VII(B).

I. Reporting for duty or remaining on duty when the employee uses any of the drugs prohibited by this Policy, except when the use is pursuant to the instructions of a physician who has advised the employee that the drug does not adversely affect the employee's ability to operate safely a Town motor vehicle or weapon, and does not adversely affect the employee's ability to carryout the duties of a police officer.

J. Performing duty within four hours after using alcohol.

K. Failure to report immediately or in a timely fashion to a drug or alcohol test once notified to do so.

L. Leaving the scene of an accident without just cause, prior to submitting to a drug or alcohol test.

M. Failure to abide by any or all terms contained in a "last chance" agreement, as outlined in Article IX of this policy.

VII. CONSEQUENCES

A. Each employee who commits a violation of this Policy shall be immediately removed from duty. The employee will be allowed to use accumulated leave credits, but will not be allowed to use any sick bank.

B. Each employee who has committed a violation of this Policy shall be advised of the resources available to the employee in evaluating and resolving problems associated with the misuse of alcohol and the use of controlled substances, including the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs.

C. Employees who are not subject to termination shall be evaluated by a substance abuse professional who shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse or drug abuse.

D. Each such employee who is identified as needing assistance in resolving problems associated with alcohol misuse or drug use shall be referred to a treatment or rehabilitation program and shall be evaluated by a substance abuse professional to determine whether the employee has properly followed and completed such rehabilitation or treatment program.

E. No employee who has violated this Policy shall return to duty unless the employee has followed the recommendations of a substance abuse professional including completion of a treatment or rehabilitation program, as certified by such substance abuse professional, and has passed a return to duty drug test or alcohol test or both, as specified by the substance abuse professional.

F. Any employee who returns to duty after having satisfied the requirements of return to duty testing as found in Article IV (B)(5) of this policy shall be subject to follow-up testing as provided in Article IV (6) of this Policy.

G. In addition to the above consequences, an employee who has violated this Policy may be subject to disciplinary action, in accordance with the provisions of New York State Civil Service Law and/or applicable collective bargaining agreement, up to and including termination.

VIII. CONSEQUENCES OF A POSITIVE DRUG TEST

A. An employee who has a positive drug test result pursuant to any drug test authorized by this policy must be immediately removed from full duty. The employee will be placed on administrative leave, and may use accumulated vacation and sick leave time. If the employee exhausts his or her accruals before return to duty testing is successfully completed, unpaid administrative leave will apply. Any employee who has a verified positive drug test result pursuant to any test authorized by this policy shall surrender his/her agency owned firearm(s) to the Chief of Police or his designee. The member will not be allowed to return to full duty until the employee has been evaluated by a substance abuse professional. The employee must make an appointment to see a substance abuse professional at the EAP provider within five (5) calendar days of being informed by the MRO of a final positive drug test result. Thereafter, the substance abuse professional will make a determination as to whether the employee can be returned to full duty, after consulting with the Chief of Police or his designee as to the employee's job duties. Depending on the extent of treatment determined necessary by the

substance abuse professional and any referral agency, the employee may be placed on sick leave or may use any other accumulated personal leave time (such as vacation) while under treatment.

B. An employee may be subjected to disciplinary action in accordance with the provisions of the New York State Civil Service Law or collective bargaining agreement, whichever is applicable, up to and including termination of employment, provided, however, that an employee who has tested positive shall be afforded the option of entering into a written “last chance” agreement which shall contain the elements set forth in Article IX (C).

C. In addition, before any employee who has tested positive returns to duty, the employee must undergo and pass a return-to-duty drug test pursuant to Article IV(B)(5) of this policy with a negative result. Should the employee fulfill all the initial requirements as outlined above and as determined by the EAP substance abuse professional, after consultation with the Chief of Police, the employee shall be allowed to return to full duty after executing a written “last chance” agreement which shall contain the following elements:

1. A brief review of the circumstances involving the positive test result, the administrative action taken, the fact that the employee sought, and has completed, an initial course of treatment and further agrees to continue participation in the professionally recommended treatment program(s);
2. The employee will agree to execute proper authorization forms to allow all treatment providers permission to communicate with the

Chief of Police or his designee regarding compliance with all recommended treatment programs;

3. The employee will agree, as a condition of continued employment, to submit to follow-up drug testing (at the employee's expense) as set forth in Article IV(B)(6) of this policy;
4. In the event the employee should test positive for drugs or alcohol in violation of this policy at any time during this designated follow up period as set forth in Article IV (B)(6), the employee shall be subject to automatic dismissal with no recourse to the contractual grievance procedure, the courts, or any other administrative appeals process, except where EAP recommended compliance, not involving a positive drug test result is alleged; or an issue involving a breach of chain of custody is alleged. Only in cases involving these two exceptions can the employee demand arbitration or hearing in accordance with the contractual grievance process found in the collective bargaining unit which covers the employee. In all other cases, the Chief of Police shall be the sole and exclusive arbitrator, with final and binding authority, of any disputes that an employee may wish to bring regarding the employee's compliance or non-compliance with the terms and conditions of the "last chance" agreement. Any outside arbitrator, hearing officer or judge hearing a claim regarding any alleged breach of compliance issues defined above shall be bound by the

fact that the employee shall have the burden of proof, by a preponderance of the evidence. No other collateral issues shall be considered or determined. The outside arbitrator hearing officer or judge's decision on the grievance can include dismissal of the employee or a finding of compliance or any other remedy fashioned by the arbitrator, hearing officer or judge.

5. If the employee elects to enter into a "last chance" agreement, as set forth above, then the Town agrees that it will not seek any discipline against that employee for having tested positive and any disciplinary actions that may have been brought against the employee related to a positive test result shall be withdrawn by the Town.

IX. EMPLOYEE RIGHTS

A. Testing and Waiting Time

All time spent on testing, including reasonable travel time, is paid time under regular pay status, including overtime, if applicable. Employees will be paid while being tested for the time away from duty, or, if their duty assignment has ended, they will be paid up to the time they are released from the testing site.

B. Confidentiality

The Town shall make every effort to assure confidentiality throughout the testing process and to protect the individual dignity and right to privacy of all employees. Personal data regarding the drug testing results and rehabilitation program evaluations will be forwarded only to the Chief of Police or designee, and are confidential. Any release of this information to persons other than to those

representatives of Town of East Fishkill listed in Section VI(F)(5) or the employee's supervisor is prohibited without the written permission of the employee tested. The affected employee may request the results of any drug or alcohol test conducted upon them in writing, by requesting such from the Chief or Police or designee. The Town may release test results to another law enforcement agency upon its request in conjunction with an investigation of an accident, crime, or internal investigation where lawful authority is presented. These releases, where required, may be done without the employee's consent.

C. Employee Assistance Program

An Employee Assistance Program (EAP) will be established to aid employees in coping with the myriad of personal problems with which they may be confronted, including drug abuse and alcohol misuse, which can affect their job performance. The Employee Assistance Program will always be open to all employees and their families who voluntarily seek its assistance, except that the EAP may not be used to avoid the taking of a drug or alcohol test when an employee has been selected for testing under the Policy. An employee who has been selected to take a required drug or alcohol test may not avoid the obligation to take the test by past or future participation in the EAP. Voluntary participation in the EAP is confidential and will not adversely affect an employee's employment with the Town.

X. QUESTIONS

A. All questions regarding the policy are to be directed to the Chief of Police or designee.